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8  
9 UNITED STATES DISTRICT COURT  
10  
11 CENTRAL DISTRICT OF CALIFORNIA

12 Federal Trade Commission,  
13 Plaintiff,

14 v.

15 Jason Cardiff, *et al.*,

16 Defendants.

17 Case No. ED 5:18-cv-02104-SJO-  
PLAx

18  
19 **TRUE PHARMASTRIP, INC.'S  
NOTICE OF MOTION AND  
MOTION TO INTERVENE**

20 Date: November 18, 2019  
21 Time: 10:00 AM  
22 Courtroom: 10C

1 **TO THIS HONORABLE COURT, ALL PARTIES, AND ATTORNEYS OF  
2 RECORD:**

3 PLEASE TAKE NOTICE that on November 18, 2019, at 10:00 a.m. or as  
4 soon thereafter as this matter may be heard before the Honorable S. James Otero  
5 in Courtroom 10C of the United States District Court for the Central District of  
6 California, located at 350 West 1st Street, Los Angeles, California 90012, non-  
7 party True Pharmastrip, Inc. (“True Pharmastrip”), will and hereby does move to  
8 intervene in this case for the purpose of participating in discovery and asserting  
9 its legal entitlement to the 1,205,984.80 USD (\$1.56 million CAD) (the  
10 “Disputed Funds”) that True Pharmastrip deposited with the Receiver on August  
11 27, 2019, pursuant to the Court’s order at the hearing on August 27, 2019.

12 Intervention is warranted as of right because (1) True Pharmastrip has a  
13 substantial property interest in the Disputed Funds, (2) that interest will not be  
14 fully represented or protected by any of the parties to this case, and (3) this  
15 interest may be impaired if the True Pharmastrip is not allowed to intervene.  
16 *See Fed. R. Civ. P. 24(a)(2).* Alternatively, True Pharmastrip respectfully  
17 requests that the Court grant True Pharmastrip’s request for permissive  
18 intervention because the company’s claim to the Disputed Funds presents  
19 questions of law and fact common to the other issues in this case, namely,  
20 whether the Disputed Funds are assets subject to the TRO or are otherwise  
21 available for restitution to any victims of the defendants, Jason and Eunjung  
22 Cardiff, that may be entitled to restitution if judgments against the Cardiffs are  
23 ultimately entered in this case. *See Fed. R. Civ. P. 24(b)(1)(B).*

24 This motion is based on this notice of motion and motion, the attached  
25 memorandum of points and authorities, the concurrently filed Declaration of  
26 James W. Spertus, the pleadings and other documents on file in this case, all  
27 matters of which the Court may take judicial notice, and any further argument or  
28 evidence that may be received by the Court at the hearing on this motion.

This motion is made following the conference of counsel pursuant to Local Rule 7-3, which took place from August 14, 2019, through October 13, 2019. Counsel for True Pharmastrip first discussed the company's intention to intervene in this action in an email to the Receiver and the FTC on August 14, 2019. (Declaration of James W. Spertus ¶ 2(a).) True Pharmastrip further conferred with the parties on this issue during negotiations that took place from August 28, 2019, to September 30, 2019, over a jointly submitted proposed order encompassing the Court's rulings at the August 27, 2019, hearing in this case. (*Id.* ¶ 2(b)-(e), (g).) For example, via email on September 10, 2019, counsel for True Pharmastrip specifically asked the FTC stipulate to an order allowing True Pharmastrip to intervene. The FTC did not respond. (*Id.* ¶ 2(f).) After additional emails and telephone calls with the FTC concerning outstanding issues in this case, counsel for True Pharmastrip on October 13, 2019, emailed counsel for the FTC and the Cardiffs requesting the parties' final position on True Pharmastrip's motion to intervene. (*Id.* ¶ 2(h).) The Cardiffs never responded to True Pharmastrip's inquiry. On October 15, 2019, FTC's counsel responded to True Pharmastrip's counsel that the FTC would not stipulate to an order allowing True Pharmastrip to intervene in this case. (*Id.*)

19 | Dated: October 18, 2019 SPERTUS, LANDES & UMHOFER, LLP

By: /s/ James W. Spertus  
James W. Spertus  
M. Anthony Brown  
Attorneys for True Pharmastrip, Inc.

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1                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2                   **I. INTRODUCTION**

3                   At the August 27, 2019, hearing on the FTC's contempt motion, the Court  
4 ordered that non-party True Pharmastrip, Inc. "should have . . . its day in court"  
5 to seek the return of \$1,205,984.80 USD that the company was ordered to  
6 deposit with the Receiver based on the FTC's uncontested claims that these funds  
7 were frozen assets of defendant Jason Cardiff. Intervention is the mechanism  
8 that affords a non-party its day in court to assert ownership of property affected  
9 by the outcome of pending litigation. Despite True Pharmastrip's repeated  
10 efforts to obtain the FTC's agreement to True Pharmastrip's intervention for that  
11 limited purpose in this case, the FTC has refused. True Pharmastrip now is  
12 forced to seek that relief by this noticed motion. True Pharmastrip seeks nothing  
13 more than the ability to protect its property interest in the \$1,205,984.80 USD the  
14 company was ordered to deposit with the Receiver, and respectfully requests  
15 that the Court allow it to do so by granting this motion to intervene.

16                  **II. FACTUAL BACKGROUND**

17                  On July 31, 2018, True Pharmastrip, Inc., was incorporated in Canada,  
18 under the name Clover Cannastrip Thin Film Technologies Corp. (The company  
19 changed its name in March 2019.) The company's original directors were non-  
20 party Jacques Poujade and defendants Jason and Eunjung Cardiff. Unlike the  
21 Cardiffs' businesses that are the subject of this FTC action, however, True  
22 Pharmastrip's business goal was to produce orally dissolvable thin film strips  
23 carrying precise dosages of THC. Through the use of pharmaceutical grade  
24 equipment and testing protocols mandated by various state laws, True  
25 Pharmastrip's final manufactured product would be an oral thin strip specific in  
26 its dosage, predictable in its effect, and thus able to be used by a wide array of  
27 consumers for all of THC's many therapeutic purposes. (Dkt. 204-1, at 3.)

1       In October 2018, the FTC filed a complaint against Jason and Eunjung  
2 Cardiff and several of their companies, including most importantly Redwood  
3 Scientific Technologies, Inc. (“Redwood”). The complaint alleges violations  
4 of Sections 5(a) and 12 of the Federal Trade Commission Act (“FTC Act”),  
5 15 U.S.C. § 45(a) and 52; Section 4 of the Restore Online Shoppers’ Confidence  
6 Act (“ROSCA”), 15 U.S.C. § 8403; Section 907(a) of the Electronic Fund  
7 Transfer Act (“EFTA”), 15 U.S.C. § 1693e(a); Section 1005.10(b) of EFTA’s  
8 implementing Regulation E, 12 C.F.R. § 1005.10; and Section 310.4(b)(1)(v) of  
9 the FTC’s Telemarketing Sales Rule (“TSR”), 16 C.F.R. § 310.4(b)(1)(v).  
10 (Dkt. 1, at ¶ 1.) These alleged violations of law are based on allegations of the  
11 Cardiffs’

12       false and unsubstantiated claims for dissolvable film strips  
13 advertised for smoking cessation, weight loss, and male sexual  
14 performance; a related autoship continuity program resulting in  
15 unauthorized shipments and charges; abusive telemarketing through  
16 robocalls; and unsubstantiated earnings claims for a multi-level  
17 marketing scheme.

18       (*Id.*; *see also* Dkt. 5, at 14 (same summary in application for TRO); 7/29/19 RT 9  
19 (same summary of complaint at contempt hearing).)

20       To ensure the availability of the Cardiffs’ assets as restitution for the  
21 victims of their unlawful scheme, the FTC also obtained a TRO that authorized,  
22 among other things, the freezing of all assets “[o]wned or controlled, directly or  
23 indirectly, by any Defendant, including, but not limited to, those for which a  
24 Defendant is a signatory on the account.” (Dkt. 29, at 12 (Section VII).) The  
25 TRO’s asset freeze provisions covered all Cardiff assets as of the time the order  
26 was entered on October 10, 2018. However, assets that came into the Cardiffs’  
27 possession or under their control after October 10, 2018, were covered by the  
28 TRO only if they “derived from any activity that is the subject of the Complaint  
in this matter or that is prohibited by this Order.” (Dkt. 29, at 13.) The TRO,

1 with its asset freeze provision, was converted into a preliminary injunction on  
2 November 8, 2018. (Dkt. 59.)

3 On June 17, 2019, the FTC filed a motion seeking to hold non-party  
4 Jacques Poujade in contempt of court for violating the TRO's asset freeze  
5 provision. (Dkt. 134.) The FTC alleged that, at the time the TRO was entered,  
6 Jason Cardiff was a signatory on True Pharmastrip's business checking account,  
7 making the funds in the account assets subject to the TRO's asset freeze. The  
8 FTC further alleged that when, shortly after the TRO was entered, Mr. Poujade  
9 transferred funds from True Pharmastrip's business checking account to one of  
10 the company's subsidiaries, his actions violated the TRO's asset freeze.<sup>1</sup> (*See,*  
11 *e.g.*, Dkt. 180, at 16, ¶ 57.)

12 In reality, the funds from True Pharmastrip's business checking account  
13 transferred by Mr. Poujade were raised in legitimate private stock offerings in  
14 Canada. True Pharmastrip's investors are third parties with no connection to the  
15 Cardiffs' consumer fraud described in the FTC's complaint. Thus, to moot the  
16 FTC's contempt allegations against its CEO and to remove any possible concern  
17 that company funds potentially covered by the asset freeze had been or could in  
18

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19 <sup>1</sup> The FTC also contended that True Pharmastrip was a "de facto continuation of  
20 the Cardiffs' thin film business operations" at Redwood and other companies.  
21 (Dkt. 134-2, at 20.) The FTC's argument appears to be premised on nothing  
22 more than the fact that the products developed by True Pharmastrip, like those  
23 sold by Jason Cardiff's companies, use the orally dissolving thin film  
24 technology. But that is an insufficient basis on which to make the claim that  
25 True Pharmastrip is a continuation of the Cardiff business operations that the  
26 FTC is trying to enjoin in this action. Numerous other companies also use the  
27 same technology for their commercial products, such as Listerine PocketPaks  
28 breath freshening strips. The FTC has never claimed, much less offered evidence  
showing, that True Pharmastrip's business involved any of those features of the  
Cardiffs' businesses that caused the FTC to file its complaint, such as unlawful  
multi-level marketing, unsubstantiated earnings claims, false advertising about  
the products' effectiveness, a deceptive auto-renewing program, or abusive  
telemarketing tactics. (*See* Dkt. 1, at ¶ 1.)

1 the future be dissipated, True Pharmastrip's board of directors on August 8,  
2 2019, authorized the deposit of \$1,205,984.80 USD (\$1,560,000 CAD)  
3 (the "Disputed Funds") into its counsel's client trust account, and counsel  
4 immediately reported this fact to the FTC, the Receiver, and the Court. That  
5 figure represented the total amount of money that the FTC claims was transferred  
6 from True Pharmastrip's business checking account *before* the date the TRO  
7 went into effect and over which Jason Cardiff, as a signatory on the account,  
8 purportedly had control.

9 On August 27, 2019, at a hearing in the contempt proceedings attended by  
10 Mr. Poujade and True Pharmastrip's Board of Directors, the Court ordered that  
11 True Pharmastrip deposit the Disputed Funds being held in counsel's trust  
12 account with the Receiver. (8/27/19 RT 15). In making this order, the Court  
13 ruled that, "with the deposit of the 1.56 million with the custody of the receiver,  
14 it would seem to me, to the Court, that would resolve the contempt proceedings  
15 before the Court today." (8/27/19 RT 31). When counsel for Mr. Poujade and  
16 True Pharmastrip, James W. Spertus, informed the Court that True Pharmastrip  
17 "want[ed] to argue and establish through facts" that the Disputed Funds were  
18 "not a receivership asset," the Court recognized that "your client should have  
19 their day—its day in court regarding whether the funds, you know, rightfully  
20 belong to—or portions of the funds rightfully belong to your client." (8/27/19  
21 RT 15). Mr. Spertus then informed that Court that True Pharmastrip would be  
22 "filing a motion to intervene for the limited purpose of participating in  
23 discovery" and establishing ownership over the Disputed Funds, and expressed  
24 hope that "[p]erhaps we can reach a stipulation with the FTC to allow us to  
25 appear and engage in discovery." (8/27/19 RT 32.) The Court replied:

26 I do think that there are—there's some, you know, serious effort by  
27 Pharmastrip to distance themselves from the conduct of the Cardiffs  
28 and others. Going forward, I appreciate the board being here today.  
And it appears that there are certain legitimate persons and

1 businesspeople involved with that entity going forward. And so I'm  
2 hopeful that these issues can be resolved in the future.

2 (8/27/19 RT 33.)

3 After the hearing, Mr. Spertus repeatedly asked the FTC to stipulate to an  
4 order allowing True Pharmastrip to intervene in the Cardiff action for the limited  
5 purpose of engaging in discovery and establishing ownership of the Disputed  
6 Funds. (*See* Declaration of James W. Spertus ¶ 2(a)-(h).) The FTC refused,  
7 explaining that in its view the Disputed Funds did not relate to "the subject of the  
8 action." (*Id.* ¶ 2(h).) The FTC did not object to intervention on any other  
9 ground. (*Id.*) As a result, True Pharmastrip had no choice but to file this motion  
10 to intervene.

11 **III. LEGAL STANDARD**

12 Under Rule 24(a)(2), governing intervention as of right, a court must allow  
13 a non-party to intervene in an action when it "claims an interest relating to the  
14 property or transaction that is the subject of the action, and is so situated that  
15 disposing of the action may as a practical matter impair or impede the movant's  
16 ability to protect its interest, unless existing parties adequately represent that  
17 interest." Courts considering motions to intervene thus consider four factors:

18 (1) the application must be timely; (2) the applicant must have a  
19 "significantly protectable" interest relating to the transaction that  
20 is the subject of the litigation; (3) the applicant must be so  
21 situated that the disposition of the action may, as a practical  
matter, impair or impede the applicant's ability to protect its  
interest; and (4) the applicant's interest must be inadequately  
represented by the parties before the court.

22 *League of United Latin Am. Citizens v. Wilson*, 131 F.3d 1297, 1302 (9th Cir.  
23 1997) (citation omitted) ("Wilson"). These requirements must be "broadly  
24 interpreted in favor of intervention." *Citizens for Balanced Use v. Montana  
25 Wilderness Ass'n*, 647 F.3d 893, 897 (9th Cir. 2011). District courts faced with  
26 intervention motions should be "'guided primarily by practical considerations,'  
27 not technical distinctions" and are "required to accept as true the non-conclusory

28

1 allegations made in support of an intervention motion.” *Sw. Ctr. for Biological*  
2 *Diversity v. Berg*, 268 F.3d 810, 818-819 (9th Cir. 2001).

3 Under Rule 24(b)(1)(b), governing permissive intervention, a court has  
4 discretion to permit a non-party to intervene when the party has “a claim or  
5 defense that shares with the main action a common question of law or fact.”  
6 Like the “interest” requirement of Rule 24(a)(2), “[t]he existence of a ‘common  
7 question’ is liberally construed.” *Bureerong v. Uvawas*, 167 F.R.D. 83, 85 (C.D.  
8 Cal. 1996); *see also Sawyer v. Bill Me Later, Inc.*, No. CV 10-04461-SJO-JCGX,  
9 2011 WL 13217238, at \*9 (C.D. Cal. Aug. 8, 2011).

10 **IV. ARGUMENT**

11 **A. True Pharmastrip Should Be Granted Intervention As of Right**

12 **1. True Pharmastrip’s Motion Is Timely**

13 In determining whether a motion for intervention is timely, the court  
14 considers three factors: “(1) the stage of the proceeding at which an applicant  
15 seeks to intervene; (2) the prejudice to other parties; and (3) the reason for and  
16 length of the delay.” *Wilson*, 131 F.3d at 1302. Prejudice is “the most important  
17 consideration” in determining timeliness of a motion to intervene. *Smith v. Los*  
18 *Angeles Unified School Dist.*, 830 F.3d 843, 857 (9th Cir. 2016).

19 True Pharmastrip’s motion is timely. This case is in its earliest stages, the  
20 trial date has not been set, discovery is still ongoing, and no proceedings of any  
21 substance on the merits of the FTC’s claims have occurred. Cf. *Wilson*, 131 F.3d  
22 at 1303 (motion to intervene was arguably untimely after four sets of parties had  
23 already intervened, discovery had ended, a plaintiff class had been provisionally  
24 certified, and the court had disposed of a dismissal and summary judgment  
25 motions). Since the case is still in the discovery stage, permitting True  
26 Pharmastrip to intervene at this time will not prejudice any party. The FTC can  
27 claim no loss of evidence, settlements made in expectation that no further claims  
28 would be made, or the necessity of reopening matters previously adjudicated.

1 Finally, True Pharmastrip brought this motion as soon as practicable. True  
2 Pharmastrip first learned that its “interest[s] would no longer be protected  
3 adequately by the parties” during litigation in the contempt proceedings.  
4 *Officers for Justice v. Civil Serv. Comm’n of City & Cty. of San Francisco*, 934  
5 F.2d 1092, 1095 (9th Cir. 1991). Immediately after resolution of the contempt  
6 proceedings, True Pharmastrip attempted to avoid the need for this motion  
7 through meet-and-confer efforts. When the FTC communicated its final refusal  
8 to stipulate to intervention, True Pharmastrip promptly filed this motion. Thus,  
9 the motion is timely.

10 **2. True Pharmastrip Claims a Significant, Protectable  
11 Interest in the Disputed Funds**

12 In claiming ownership over the Disputed Funds, True Pharmastrip has a  
13 significant, protectable interest relating to property that is the subject of the  
14 action. Indeed, a third party is entitled to intervene as a matter of right when “the  
15 injunctive relief sought by the plaintiffs will have direct, immediate, and harmful  
16 effects upon a third party’s legally protectable interests.” *Sw. Ctr. for Biological  
17 Diversity*, 268 F.3d at 818; *see also Forest Conservation Council v. United States  
18 Forest Serv.*, 66 F.3d 1489, 1494 (9th Cir. 1995), *abrogated on other grounds in  
19 Wilderness Soc. v. U.S. Forest Serv.*, 630 F.3d 1173, 1178 (9th Cir. 2011).

20 Here, the FTC claims that the Disputed Funds are frozen assets under the  
21 TRO. The FTC’s complaint seeks restitution for victims of the Cardiffs’  
22 consumer fraud. (Dkt. 1, at 51.) When filing the complaint, the FTC also  
23 applied for a TRO with asset freeze provisions to preserve the Court’s “ability  
24 to grant effective final relief for consumers – including monetary restitution.”  
25 (Dkt. 29, at 3.) The TRO was thus an initial step in advancing the “the subject  
26 of the [FTC’s] action.” Fed. R. Civ. P. 24(a)(2). Due to the Court’s order  
27 requiring the deposit of the Disputed Funds with the Receiver pending resolution  
28 of whether those funds are subject to the TRO’s asset freeze, True Pharmastrip is

1 not able to access or control those assets, either for its own use or for investment  
2 purposes. Because the injunctive relief sought by the FTC will have direct,  
3 immediate, and harmful effects upon non-party True Pharmastrip's investment  
4 capital, True Pharmastrip claims a significant, protectable interest warranting its  
5 intervention in this case.

6 Contrary to the position taken by the FTC in correspondence with True  
7 Pharmastrip (Spertus Decl. ¶ 2(h)), the "subject of the action" is not limited "to  
8 the liability or merits portion of [the FTC's] complaint" but also includes the  
9 injunctive relief sought in the action. *See Forest Conservation Council*, 66 F.3d  
10 at 1494. For example, in *S.E.C. v. Lefebvre*, No. C 02-3704 JSW, 2004 WL  
11 2696731 (N.D. Cal. Mar. 31, 2004), which also involved a non-party seeking  
12 intervention to protect funds subject to an asset freeze, the Court granted  
13 intervention, explaining:

14 Comet's motion for limited intervention is proper under either Rule  
15 24(a) or (b). Comet has demonstrated to the Court's satisfaction that  
16 it meets the four requirements of Rule 24(a). Comet has a  
17 protectable interest relating to funds that are subject to the Order  
18 Freezing Assets. Neither plaintiff SEC nor Watch Hill has disputed  
19 that Comet has a legally protectable interest in the funds. Due to the  
20 Order Freezing Assets, Comet is not able to access or control its  
own assets, either for its own use or investment purposes. The  
Court further finds that Comets' application is timely, litigation on  
this matter is in the early stages and intervention will not delay the  
case or prejudice the parties. Finally, because the funds belong to  
Comet, it has a heightened interest over that of the SEC in obtaining  
a prompt release of the funds.

21 *Id.* at \*2.

22 Like the non-party seeking intervention in *Lefebvre*, True Pharmastrip  
23 claims a significant, protectable interest in frozen assets and, thus, satisfies this  
24 requirement for intervention.

25 **3. True Pharmastrip's Interest in the Disputed Funds  
26 May Be Impaired Without Intervention**

27 Disposition of the action may, as a practical matter, impair or impede True  
28 Pharmastrip's ability to protect its interests in the Disputed Funds. The whole

1 point of the TRO's asset freeze is to preserve funds for eventual use in providing  
2 restitution to the Cardiffs' victims. The FTC clearly announced this goal when  
3 requesting the TRO, stating that its objective in seeking to freeze Cardiff assets  
4 was "to ensure that [those] assets are available to make restitution to injured  
5 consumers." (Dkt. 5, at 61.) If the FTC prevails against the Cardiffs and  
6 succeeds in its effort to convert the Disputed Funds into restitution for Cardiff  
7 victims, True Pharmastrip's interest in those funds and the interests of its  
8 investors will be impaired. *Citizens for Balanced Use*, 647 F.3d at 898. Thus,  
9 True Pharmastrip also satisfies this requirement for intervention.

10           **4. Neither the FTC Nor the Cardiffs Will Adequately  
11            Represent True Pharmastrip's Interests**

12            "The burden of showing inadequacy of representation is 'minimal' and  
13            satisfied if the applicant can demonstrate that representation of its interests 'may  
14            be' inadequate." *Citizens for Balanced Use*, 647 F.3d at 898 (quoting *Arakaki v.  
15            Cayetano*, 324 F3d 1078, 1086 (9th Cir. 2003)). In evaluating adequacy of  
16            representation, courts look to three factors: "(1) whether the interest of a present  
17            party is such that it will undoubtedly make all of a proposed intervenor's  
18            arguments; (2) whether the present party is capable and willing to make such  
19            arguments; and (3) whether a proposed intervenor would offer any necessary  
20            elements to the proceeding that other parties would neglect." *Id.* (internal  
21            quotation marks omitted.) The most important factor is "how the interest  
22            compares with the interests of existing parties." *Id.*

23            The FTC believes the Disputed Funds are Jason Cardiff's assets that  
24            should be used to provide restitution to the victims of Jason Cardiff's consumer  
25            fraud scheme. But True Pharmastrip contends that the Disputed Funds are *not*  
26            Jason Cardiff's assets and, therefore, should *not* be used to provide restitution to  
27            Jason Cardiff's victims. With these "fundamentally differing points of view"  
28            about who the Disputed Funds belong to, the FTC and True Pharmastrip are

1 indisputably adverse parties. *Citizens for Balanced Use*, 647 F.3d at 899. Thus,  
2 the FTC, despite being a government agency, obviously will *not* represent True  
3 Pharmastrip's interests with respect to the Disputed Funds. Accordingly,  
4 intervention is necessary because True Pharmastrip and its investors have  
5 interests different from those of the FTC and Receiver. *See S.E.C. v. Navin*,  
6 166 F.R.D. 435, 441 (N.D. Cal. 1995) (granting intervention as of right where  
7 proposed intervenor "has shown that the investors' interests may differ from  
8 those of the SEC.").

9       The Cardiffs also will not adequately represent True Pharmastrip's  
10 interests. Throughout the contempt proceedings, the Cardiffs took the position  
11 that the Disputed Funds belonged to True Pharmastrip and that they had no  
12 control over the funds. (*E.g.*, Dkt. 193.) In fact, before the August 27, 2019,  
13 hearing, the Cardiffs filed supplemental evidence in support of their opposition  
14 to the FTC's proposed findings of fact that consisted of an email from the  
15 Receiver stating, "The Cardiffs want to 'cooperate' to turn over that money to the  
16 Receiver. That is fine, but they don't have access to it; Poujade now does."  
17 (Dkt. 195, at 2.) The Cardiffs have shown that they have neither the incentive  
18 nor the resources to challenge ownership over the Disputed Funds.

19       More importantly, True Pharmastrip has taken a position in this litigation  
20 directly adverse to the Cardiffs, arguing at the August 27, 2019, hearing that  
21 "True Pharmastrip, the entity, is also a victim of Jason Cardiff," and that  
22 Cardiff's misrepresentations and unauthorized conduct while employed as a  
23 consultant for one of True Pharmastrip's subsidiaries were ultimately the cause  
24 of the company's embroilment in this case. (*E.g.*, 8/27/19 RT 9, 12.)

25       Accordingly, True Pharmastrip satisfies this last requirement for  
26 intervention as of right.

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1           **B. True Pharmastrip Should Be Permitted To Intervene**

2           Should the Court determine that intervention as of right is not warranted,  
3 True Pharmastrip respectfully requests that the Court permit it to intervene under  
4 Rule 24(b)(1)(b) because the company has “a claim or defense that shares with  
5 the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1)(b).

6           Unlike intervention as of right under Rule 24(a), there is no requirement of  
7 a “significant protectable interest” to be able to intervene under Rule 24(b).

8 *Emp. Staffing Servs., Inc. v. Aubry*, 20 F.3d 1038, 1042 (9th Cir. 1994) (“[T]he  
9 requirement of a legally protectable interest applies only to intervention as of  
10 right under Rule 24(a), not permissive intervention under Rule 24(b).”). Once  
11 the conditions for permissive intervention are met, the court has discretion to  
12 allow or disallow intervention, *Donnelly v. Glickman*, 159 F.3d 405, 409 (9th  
13 Cir. 1998), and may limit intervention to certain issues, *Dep’t of Fair Emp’t &*  
14 *Hous. v. Lucent Techs., Inc.*, 642 F.3d 728, 741 (9th Cir. 2011) (“The district  
15 court’s discretion . . . under Rule 24(b), to grant or deny an application for  
16 permissive intervention includes discretion to limit intervention to particular  
17 issues.”). Courts considering permissive intervention evaluate the timeliness,  
18 prejudice to existing parties, and judicial economy, among other factors which  
19 the court deems relevant. *Venegas v. Skaggs*, 867 F.2d 527, 530-31 (9th Cir.  
20 1989), *aff’d*, 495 U.S. 82 (1990).

21           Although True Pharmastrip firmly disputes that the company is in any way  
22 a continuation of the Cardiffs’ Redwood business, whether the Disputed Funds  
23 are a Cardiff asset versus legitimate investor funds that are not proper sources of  
24 restitution for the Cardiffs’ victims, is a common question of fact relating to the  
25 preliminary injunction issued by this Court. Therefore, as the Court has already  
26 recognized at the contempt hearing, True Pharmastrip “should have . . . its day in  
27 court regarding whether the funds, you know, rightfully belong to—or portions  
28 of the funds rightfully belong to” True Pharmastrip. (*See* 8/27/19 RT 15.)

1       **V. CONCLUSION**

2           For the foregoing reasons, True Pharmastrip respectfully requests that the  
3 Court grant its motion to intervene in this case for the purposes of conducting  
4 discovery and contesting the true ownership of the Disputed Funds.

5  
6 Dated: October 18, 2019                   SPERTUS, LANDES & UMHOFER, LLP

7  
8           By:     /s/ James W. Spertus  
9                   James W. Spertus  
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